

**Date:** December 22, 2015

**To:** Thomas J. Bonfield, City Manager  
**Through:** Wanda S. Page, Deputy City Manager  
**From:** David Boyd, Finance Director  
Keith Herrmann, Deputy Finance Director  
Chad Cowan, Treasurer  
**Subject:** Adopt a Resolution Requesting A Deed of Partial Release for Certain Premises Related to an Installment Purchase Contract with New Durham Corporation and Related Matters

### **Executive Summary**

The Finance Department is pursuing the adoption of a resolution authorizing the release of one of the properties pledged as collateral securing the City's 2005 Certificates of Participation (COPs) and the 2012 A&B Limited Obligation Bonds (LOBs) and execution of a Deed of Partial Release related to the Deed of Trust. Such release is required if the City is to sell the North Deck. Additionally, it would be economical for the City to execute a Modification to the original Deed of Trust which would allow the City to avoid approximately \$12,000.00 in additional expenses related to appraisals on all the properties remaining within the collateral pool for other outstanding debt.

### **Recommendation**

The Finance Department recommends that the City Council:

1. Adopt a Resolution of the City Council of the City of Durham, North Carolina, requesting a Deed of Partial release for certain premises related to an installment purchase contract, and
2. Authorize the City Manager or his designee to execute other associated legal documents as necessary and to make changes to any of the legal documents prior to execution, so long as the changes are consistent with the intent of the agenda item memo and the existing versions of the documents.

### **Background**

On December 1, 2003, the City entered into an Installment Purchase Contract with the New Durham Corporation. As part of the financing agreement, the City executed a Deed of Trust which pledged eight properties as security in the financing. Subsequently, the City has executed two amendments to the original Contract related to additional financings. As part of the Trust Indenture, the City is allowed to release property from the collateral pool by adoption of a resolution requesting a Deed of Partial Release. The Deed of Trust and Security Agreement requires that the remaining property have a value in excess of 110% of the outstanding debt in order to release any properties from the pool of collateral. Additionally, the valuation is required to be calculated by a MAI certified appraiser.

**Issues and Analysis**

The approval of the Resolution and authorization of the City Manager to execute the Deed of Partial Release will allow the City to release a property from the collateral pool and execute a sale of property by the City, if approved by Council. This item provides the legal authority for the City to take the appropriate steps to release a property from the collateral pool.

The City is currently considering the sale of the North Deck which is currently part of the collateral pool. In order to close on the sale of the North Deck, it must first be released from the pool of properties securing other debt.

**Alternatives**

The City Council could choose not adopt the resolution Requesting the Release of the property from the Collateral Pool and authorizing the City Manager execute the Deed of Partial Release. However, this decision would preclude the City from selling the property.

The City Council could also opt not to authorize the City Manager to execute the Modification to the Deed of Trust and Security Agreement. The modification allows the City to avoid additional appraisal fees if a decision to sell the property is made. The City would then incur additional costs related to getting appraisal on the properties within the collateral pool.

**Financial Impact**

The execution of these documents has no financial impact on the City.

**SDBE Summary**

There are no SDBE issues with regard to this item.

**Attachments**

Approving Resolution (5 pages)

Deed of Partial Release (5 pages)

Modification of Deed of Trust and Security Agreement (5 pages)